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REMARKS

Claims 1-19, and 22-44 are currently pending. Claims 1, 9, 16, 19, 23, 28, and 35 have been amended for clarification only. The amendment of these claims does not raise new issues or require further search and/or consideration. Thus, it is respectfully requested that the amendment be entered. It is respectfully submitted that no new matter has been added.

The Patent Office has objected to the drawings in items 2 through 6. Items 2 through 6 are addressed below.

Items 2 and 3. Applicant has labeled the drawing figures in an amendment to the drawings. It is respectfully submitted that no new matter has been added. It is respectfully requested that the Patent Office remove its objections to the drawings regarding labeling.

Item 4. A replacement drawing figure 10 is being submitted which shows reference number '11' as a network. It is respectfully submitted that no new matter has been added.

Item 5. A new drawing figure 7A is being presented to illustrate part numbers 71-74 and 78-79. It is respectfully submitted that no new matter has been added.

Item 6. Replacement sheets for amended Figs. 1-10 and a new sheet for new Fig. 7A are submitted. It is respectfully submitted that no new matter has been added.

The Patent Office rejected claims 1-15 under 35 U.S.C. 103(a) as being unpatentable over Gerba, U.S. Patent No. 5,931,908, in view of Swartzel, U.S. Published Patent Application No. 2002/0109593.

Claim 1 recites as follows:

A method for providing a wireless device with context sensitive information related to a theme, the method comprising: synchronizing a network with the theme, the network comprising a source of context sensitive information and at least one port for receiving a request for context sensitive information from the wireless device and for distributing context sensitive information; requesting the context sensitive information by contacting the at least one port of the network with a communications port of the wireless device; and, providing to the wireless device through the at least one port a signal comprising the requested context sensitive information, **where at least requesting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port.**

Broadly interpreted, the examiner appears to read the set-top box as the wireless device

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and the head end as the network port in Gerba. Applicant's invention, as illustrated by the back of the seat in a movie theater, grocery shelves, and kiosk embodiments, involves a close proximity device.

Gerba discloses a set-top box 34 that may be wirelessly coupled to a head end 2. Gerba discloses a remote control device (e.g., column 8, lines 45-46) that communicates with a set-top box 34 (column 8, line 53). A remote control device does not correspond to at least **requesting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port** as a user may communicate with a set-top box across a room and a head end may be located many meters from a set top box.

Claim 9 recites as follows:

An apparatus for providing a wireless device with context sensitive information related to a theme, the apparatus comprising: a device for synchronizing a network with the theme, the network comprising a source of context sensitive information and at least one port for receiving a request for context sensitive information from the wireless device and for distributing context sensitive information; wherein the at least one port is adapted for providing to the wireless device a signal comprising the context sensitive information, **wherein the at least one port is disposed in association with at least one of specific goods and merchandise, where at least requesting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port.**

Gerba discloses an interactive audiovisual system that permits a user to make selections, manipulate data, and execute functions (column 1, lines 12-18) using a remote control device (e.g., column 8, lines 45-46) that communicates with a set-top box 34 (column 8, line 53) and a head end 2 and set top box 34 in wireless communication (column 4, lines 21-24) which may be located many meters from each other. Gerba does not disclose **the at least one port is disposed in association with at least one of specific goods and merchandise, where at least requesting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port.**

The Patent Office asserted from page 4, line 16, through page 5, line 3, as follows:

However, Gerba et al. does not specifically disclose the at least

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one port is disposed in association with at least one of specific goods and merchandise, or where at least requesting occurs only when the wireless device is in very close proximity or in physical contact with at least one port.

Swartzel et al. clearly show and disclose the at least one port (tag) is disposed in association with at least one of specific goods and merchandise (figure 1, figure 2, figure 3, figure 4, paragraph [0016], paragraph [0018]), where at least requesting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port (inherent from the teachings of Swartzel et al. since the use of a portable scanner 51 would require a user to be in close proximity to the tag 20 being scanned in order to avoid interference from other RF tags 20) (figure 2, paragraph [0031]).

How would one of ordinary skill in the art modify Gerba? Gerba discloses a set-top-box 34 through which a user may make “selections using a remote control device (48)” (column 8, lines 44-47) in which the set-top-box 34 is communicatively coupled to a head-end 2 and the head-end 2 is communicatively coupled to satellite 4.

Swartzel discloses an “electronic display tag” (abstract) 102 that may include RF transceiver means 122 for reading identifying information for each product such as by an RF ID tag (paragraph 0041) and may also include a display screen 106 (paragraph 0033). Swartzel discloses “the tag 102 and controller 114 may be operable in a targeted merchandise mode in which the tag 102 transmits a localized RF or other electromagnetic signal (via transceiver 122 for example) for detecting a consumer RF ID tag in the area” (paragraph 0042).

Where in Gerba’s system would one of ordinary skill in the art decide to place an RF ID tag or a transmitter of localized RF signals? Gerba is directed to selecting an actionable object on a display by a remote control device where the display, comprising a set-top-box 34, may communicate wirelessly with a head-end 2. In modifying Gerba, would the head-end 2 or the set-top-box 34 be replaced by the tag 102 comprising the display screen 106? In that case, what would the tag 102, which communicates with the RF ID tags of products and controller 114, of Swartzel interface with in the system of Gerba? There does not seem to be an analog in Swartzel of the remote control device, set-top-box, head-end arrangement of Gerba. In Gerba, a remote control device passes a selection through the set-top-box to the head-end and then through a

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satellite transmitter. In Swartzel, a controller 114 can determine product information through a tag 102 that has a display. In Gerba, a selection is made through several layers of devices; in Swartzel, information is gathered from an RF ID tag by a controller through a tag 102.

If the point of the Patent Office is that Swartzel teaches “where at least requesting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port,” then this teaching does not translate to Gerba. Why would one of ordinary skill want to surrender the remote control device 48 of Gerba to adopt a more restrictive arrangement limited to localized RF communications? Also, would localized RF communications correspond to a “wireless device is in very close proximity or in physical contact with the at least one port?”

Where in the remote control device, set-top-box, head-end, satellite transmitter arrangement of Gerba would one of ordinary skill in the art place RF ID tags?

Gerba is not amenable to modification by Swartzel for this purpose.

The portions of Swartzel cited by the Patent Office (i.e., figures 1-4, paragraphs 0016, 0018, and 0031) do not alter the above discussed deficiencies of Swartzel as a secondary reference for modifying Gerba.

Thus, claims 1-15 are patentable.

The Patent Office rejected claims 16-18 and 39 under 35 U.S.C. 103(a) as being unpatentable over Sharood, U.S. Patent No. 6,934,862, in view of Borgstahl, U.S. Patent No. 6,487,180.

Claim 16 recites as follows:

A method for providing a wireless device with context sensitive information related to an operation of an apparatus, the method comprising: providing an apparatus comprising a network linked to at least one sensor, a source of context sensitive information, and at least one port for receiving a request for context sensitive information and for distributing the context sensitive information; monitoring the operation of the apparatus with the at least one sensor to produce operational data; contacting the at least one port with the wireless device to request the context sensitive information, **where at least contacting occurs only when the wireless device is in very close**

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proximity or in physical contact with the at least one port; using the operational data to select context sensitive information; and providing the context sensitive information to the wireless device through the at least one port.

The Patent Office asserted, on page 8, lines 11-18, of the Final Office Action dated June 27, 2007, as follows:

Sharood et al. does not specifically disclose the at least contacting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port.

Borgstahl et al. shows and discloses a personal information system using proximity based short-range wireless links (column 1 lines 28-21). Borgstahl et al. teaches a personal area network in which there is a detection zone 28 surrounding each peer 20. Wireless communications links 26 are operated on sufficiently low power to limit the communication range to close proximity (figure 1, column 4 lines 23-26 lines 35-47, column 12 lines 25-41).

Sharood is directed to a build control (BC) system that “may be used to automate a home, office, or another type of commercial or residential building” (column 3, line 66, through column 4, line 2). Sharood further discloses the “BC system can be retrofitted for use in existing structures and legacy appliances without the need for drastic remodeling, added wiring, or complicated installation/ customization” (column 4, lines 8-11). Sharood discloses a portable tablet 150 that may communicate with a BC system and that may have video and web browsing capabilities (column 13, lines 2-23). Sharood discloses an “appliance can controlled remotely under the supervision and monitoring of a portable web pad 150 within the home, or from a remote location using the Internet portal 5” (column 25, lines 61-65). As an example of the use of a portable table 150 in a BC system, Sharood discloses “a parent could use the portable tablet to flash a message of the children’s TV – ‘it’s time for dinner.’ (column 13, lines 10-11).

As Sharood is directed to a building control (BC) system, one of ordinary skill in the art, using Sharood as the base reference, would not be inclined to limit a portable table 150 or similar device to “**at least contacting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port.**” In fact, the spirit of Sharood runs counter to limited wireless devices to those in very close proximity or in physical contact with at least one

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port. Would one of ordinary skill in the art, using the building control system of Sharood as a basis, seek to limit a wireless device to communication with a port of the building control system only when the wireless device is in very close proximity or in physical contact with the port (see, for example, column 25, lines 61-65, or column 13, lines 10-11).

Borgstahl discloses a personal kiosk system 132 and a personal presence identifier 122 (abstract). Borgstahl discloses wireless communications links 26 for the vast majority of peers 20 “operated at a sufficiently low power so that a wireless communication range for a given peer 20 is limited to being less than 5 meters, and more preferably to being less than about 5 meters for the typical peer 20” (column 4, lines 17-23) so that the “number of potential connections at any given instant in time to those peers 20 which are physically proximate to one another” (column 4, lines 35-39).

The passages of Borgstahl (column 1, lines 28-21; column 4 lines 23-26 lines 35-47; column 12, lines 25-41, and also figure 1), cited by the Patent Office, do not cure the above noted deficiency of Sharood.

Borgstahl is not directed to a wireless device that can contact a port only when the wireless device that is **“in very close proximity or in physical contact with the at least one port.”**

Thus, even if Sharood were amenable to modification to allow only very close proximity or physical contact for communication to occur between a wireless device and a port (and it has been argued by Applicant that Sharood is not amenable to such modification), Borgstahl would still fail to cure the deficiency of Sharood as Borgstahl does not teach a wireless device that can only communicate with a port when the wireless device is in very close proximity or physical contact with the port.

Thus, claims 16-18 and 39 are allowable.

Regarding claim 17, Applicant challenges the taking of Official Notice and requests that the Patent Office provide an appropriate prior art teaching for claim 17 or allow claim 17.

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The Patent Office rejected claims 19, 22, and 40 under 35 U.S.C. 103(a) as being unpatentable over Sharood, in view of Borgstahl.

Claim 19 recites as follows:

An apparatus adapted for providing a wireless device with context sensitive information related to the operation of the apparatus, the apparatus comprising: a processing unit for synchronizing a network with the apparatus, the network comprising a source of context sensitive information and at least one port for receiving a request for context sensitive information and for distributing context sensitive information; wherein the at least one port is adapted for providing to the wireless device a signal comprising the context sensitive information, wherein the apparatus comprises an appliance and the context sensitive information includes data from a sensor of the appliance, **where at least requesting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port.**

As discussed above, neither Sharood nor Borgstahl teach “**where at least requesting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port**” nor is base reference Sharood amenable to such modification.

Thus, claims 19, 22, and 40 are allowable.

The Patent Office rejected claims 23-38 and 41-44 under 35 U.S.C. 103(a) as being unpatentable over Gerba in view of Borgstahl.

Claim 23 recites as follows:

A method for receiving context sensitive information with a wireless device, the method comprising: contacting a network with the wireless device, the network comprising a source of context sensitive information and at least one port for receiving a request for context sensitive information from the wireless device and for distributing context sensitive information; wherein the network is synchronized with a theme, **wherein at least contacting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port**; the network communicating with the wireless device through the at least one port; and, downloading the context sensitive information to the wireless device.

Claim 28 recites as follows:

A wireless device for receiving context sensitive information, the device comprising: a wireless communications port for communicating with a

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network, the network comprising a source of context sensitive information and at least one port for receiving a request for the context sensitive information from the wireless device and for distributing the context sensitive information; the network being synchronized with a theme; wherein the wireless device receives the context sensitive information through the wireless communications port, **wherein the wireless device communicatively couples with the wireless communications port only when the wireless device is closely adjacent to or in physical contact with the wireless communications port.**

Claim 35 recites as follows:

A method for providing a wireless device with context sensitive information related to a showing of a movie, the method comprising: synchronizing a network with the showing of the movie in a movie theater, the network comprising a source of context sensitive information and at least one port for receiving a request for context sensitive information from the wireless device and for distributing context sensitive information; **requesting the context sensitive information only by having the at least one port of the network in a touching or nearly touching engagement with a communications port of the wireless device;** and, providing to the wireless device through the at least one port a signal comprising the requested context sensitive information.

Gerba, as discussed above, discloses a remote control 48, set-top-box 34, head-end 2, and satellite arrangement. Gerba would not be amenable to modification to communicatively couple with or contact a port only by a wireless device only when the wireless device is closely adjacent to, in very close proximity, or in physical contact with the port.

Borgstahl, as discussed above, does not disclose or suggest a wireless device that can communicatively couple or contact a port only when closely adjacent to, in very close proximity, or in physical contact with the port.

Thus, claims 23-38 and 41-44 are allowable.

Regarding claims 24-27, 31-38, and 44, in regard to the taking of Official Notice, Applicant requests that an appropriate teaching be provided from the prior art.

Furthermore, claim 44 was rejected as being unpatentable over only two references – Gerba and Borgstahl. Yet, by further rejecting claim 44 by the two references, Gerba and Borgstahl, and an additional reference, Rider, the Patent Office seems to be admitting that claim 44 is not

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unpatentable under Gerba and Borgstahl.

The Patent Office rejected claim 44 as being unpatentable over Gerba in view of Borgstahl, and further in view of Rider, U.S. Patent No. 6,346,045.

Rider discloses a large screen gaming system and facility for video games with a large number of user stations (abstract).

Gerba discloses a remote control device 48 for making selections in the system disclosed as including a set-top-box 34, a head-end 2, and a satellite transmitter. A remote control device 48 may be found in a residential home or in private commercial lodging, such as in a hotel room, where a level of privacy is expected. Yet, the Patent Office considers Rider, directed to a gaming facility, to provide a teaching to modify Gerba so that a plurality of ports are available, where each port is located in proximity to a different theater audience seat. This purported modification by Rider of Gerba runs counter to the spirit of Gerba which uses a remote control device 48 to make a selection shown by the set-top-box 34.

The passages cited by the Patent Office in Rider (figure 1, abstract, column 1 lines 8-11, column 2 lines 37-44 lines 56-61, column 3 lines 40-49, column 4 lines 9-11 lines 48-52) do not teach a remote control device or an analog of remote control device. Rider discloses a game card, such as a smart card, that is inserted into a game card reader/writer 60 (column 5, lines 21-25).

How does Rider (or, Gerba or Borgstahl) teach or suggest **“requesting the context sensitive information only by having the at least one port of the network in a touching or nearly touching engagement with a communications port of the wireless device?”**

Applicant respectfully submits that claim 44 is allowable over Gerba, Borgstahl, and/or Rider.

In summary, neither base reference Gerba nor base reference Sharood are amenable to modification to include a wireless device that communicatively couples a port of an entertainment system or a building control system.

Gerba discloses a remote control device (e.g., column 8, lines 45-46) that communicates with a set-top box 34 (column 8, line 53) and a set-top box 34 that may be in wireless communication with a head end 2 (column 4, lines 21-24). Neither a remote control device nor a

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set top box is a **wireless device communicatively couples with the wireless communications port only when the wireless device is closely adjacent to or in physical contact with the wireless communications port** as a user may communicate via a remote control device with a set-top box across a room and a set top box 34 and a head end 2 may be located far from each other when in wireless communication with each other. A remote control device does not involve a **touching or nearly touching engagement with a communications port** as a user may communicate with a set-top box across a room and a set top box 34 and head end 2 may be separated by meters or even kilometers.

Why would one of ordinary skill choose to replace a remote control device 48, as taught by Gerba, with a wireless device that communicatively couples with a port only in very close proximity or in physical contact?

Sharood discloses a building control system for commercial or residential property. With a portable tablet 150 in hand, why would a parent or a building manager want to be limited to very close proximity or physical contact between the portable tablet 150 and port to be able to communicate through the portable tablet 150 in Sharood? It seems this would place an undue and undesired burden on a building manager and would likely be found equally unappealing to a homeowner or parent.

The Patent Office is respectfully requested to reconsider and remove the rejections of the claims under 35 U.S.C. 103(a) based on Gerba in view of Swartzel, Sharood in view of Borgstahl, Gerba in view of Borgstahl, or Gerba in view of Borgstahl and Rider, and to allow all of the pending claims 1-19, and 22-44 as now presented for examination. An early notification of the allowability of all of the pending claims is earnestly solicited.

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Fig. 7A

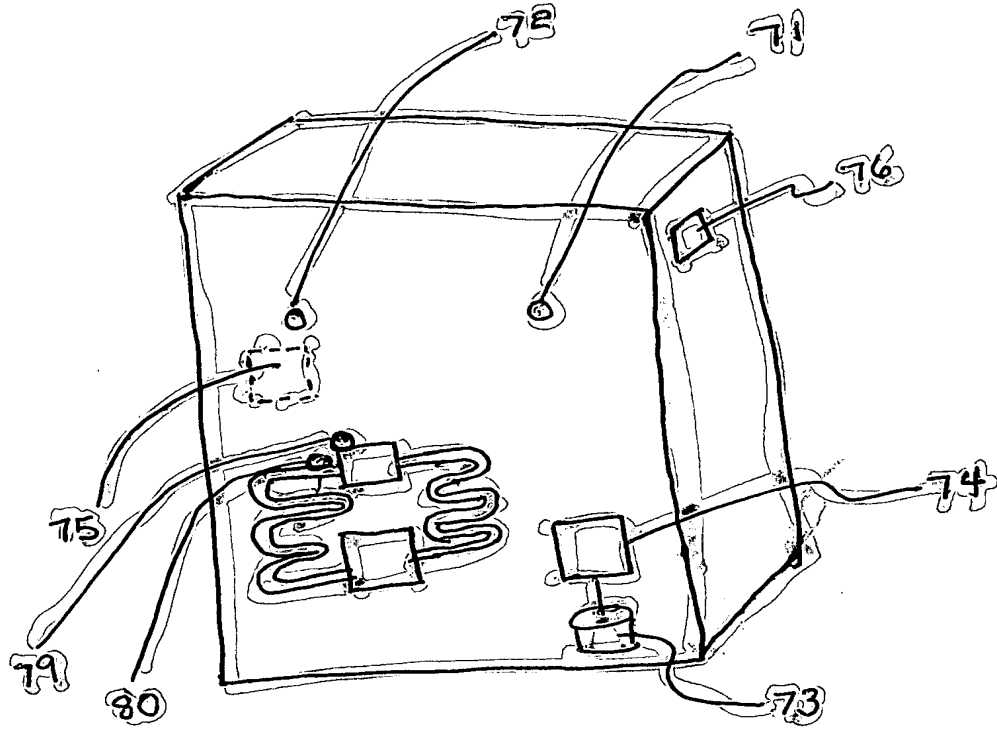


Fig. 10

